

1 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

2 In the Matter of:

Investigation Case Number 04-0011-PHR

3 HOWARD G. JONES, RPh. )  
4 Holder of License No. 12624 )  
5 For the Practice of Pharmacy )  
6 In the State of Arizona, )  
Respondent )

**CONSENT AGREEMENT AND ORDER  
FOR SUSPENSION AND PROBATION**

7 **RECITALS**

8 In the interest of a prompt and judicious settlement of this case, consistent with the public  
9 interest, statutory requirements and the responsibilities of the Arizona State Board of Pharmacy ("Board")  
10 and under A.R.S. §§ 32-1901 *et. seq.* and 41-1092.07(F)(5) , HOWARD G. JONES ("Respondent"),  
11 holder of pharmacist license number 12624 to practice pharmacy in the State of Arizona, and the Board  
12 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent  
13 Agreement") as a final disposition of this matter.

14 1. Respondent has read and understands this Consent Agreement and has had the  
15 opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity  
16 to discuss this Consent Agreement with an attorney.

17 2. Respondent understands that he has a right to a public administrative hearing concerning the  
18 above-captioned matter, at which hearing he could present evidence and cross-examine witnesses. By  
19 entering into this Consent Agreement, Respondent freely and voluntarily relinquishes all right  
20 to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial  
21 review or any other administrative and/or judicial action, concerning the matters set forth herein.

22 3. Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

23 4. Respondent understands that this Consent Agreement or any part of the agreement may  
24 be considered in any future disciplinary action against him.

25 5. Respondent understands this Consent Agreement deals with Board Investigation  
26 Case No. 04-0011-PHR involving allegations of unprofessional conduct against Respondent. The

1 investigation into these allegations against Respondent shall be concluded upon the Board's  
2 adoption of this Consent Agreement.

3 6. Respondent understands that this Consent Agreement does not constitute a dismissal  
4 or resolution of any other matters currently pending before the Board, if any, and does not constitute any  
5 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any other pending  
6 or future investigation, action or proceeding. Respondent also understands that acceptance of this  
7 Consent Agreement does not preclude any other agency, subdivision, or officer of this State from  
8 instituting other civil or criminal proceedings with respect to the conduct that is the subject of this  
9 Consent Agreement.

10 7. Respondent acknowledges and agrees that upon signing this Consent Agreement and  
11 returning this document to the Board's Executive Director, Respondent may not revoke his acceptance  
12 of the Consent Agreement or make any modifications to the document regardless of whether the  
13 Consent Agreement has been signed by the Executive Director. Any modification to this original  
14 document is ineffective and void unless mutually agreed by the parties in writing.

15 8. Respondent understands that the Consent Agreement shall not become effective unless  
16 and until adopted by the Board and signed by its Executive Director.

17 9. If a court of competent jurisdiction rules that any part of this Consent Agreement is void  
18 or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full  
19 force and effect.

20 10. Respondent understands and agrees that if the Board does not adopt this Consent  
21 Agreement, he will not assert as a defense that the Board's consideration of this Consent  
22 Agreement constitutes bias, prejudice, prejudgement or other similar defenses.

23 11. Respondent understands that this Consent Agreement is a public record that may be  
24 publicly disseminated as a formal action of the Board and may be reported as required by law to  
25 the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

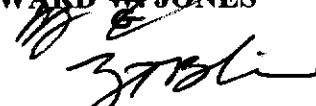
26 12. Respondent understands that any violation of this Consent Agreement constitutes

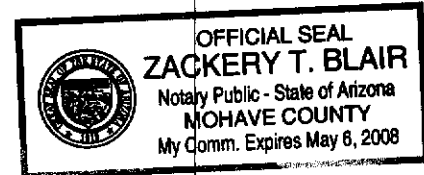
unprofessional conduct under A.R.S. § 32-1927 (A) (17) (the licensee violated a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its Executive Director pursuant to this chapter) and may result in disciplinary action under A.R.S. § 32-1927.

REVIEWED AND ACCEPTED BY:

  
HOWARD W. JONES

06-08-04  
DATE

  
Notary Public



### FINDINGS OF FACT

By stipulation of the parties, this Consent Agreement is entered into for final disposition of the matters described herein. Respondent admits to the following Findings of Fact:

13. The Board is the duly constituted authority for the regulation and control of the practice of pharmacy in the State of Arizona.

14. The Board possesses jurisdiction over the subject matter and over Respondent as a licensee of the Board under A.R.S. § 32-1901, et seq.

15. Respondent is the holder of a license 12624 which permits him to engage in the practice of pharmacy in the State of Arizona.

16. From May 1, 2003 through March 6, 2004 Respondent was employed as the pharmacist-in-charge between the dates of at Smith's Pharmacy #191, 1775 Lakeside Drive, Bullhead City, Arizona.

17. On March 4, 2004, Respondent admitted to his employer to fraudulent activities such as not paying for his family's prescriptions, discounting insurance co-pays for customers without authorization from the customer's insurance or Smith's, not collecting insurance co-pays for prescriptions, refilling prescriptions for patients without authorization from the appropriate medical practitioner, accepting returns of dispensed prescriptions and returning the drugs to stock, and leaving technicians alone in the pharmacy without pharmacist supervision. (See Exhibit A - Statement from Respondent's supervisor, Blair Woolf.

1 18. On March 6, 2004, Respondent sent a letter to Blair Woolf, Respondent's supervisor, detailing  
2 some of the same violations as listed in Exhibit A. ( See Exhibit B , Respondent's letter ).

3 19. Between March 23, 2004 and March 30, 2004, a Board Compliance Officer conducted an  
4 audit of Controlled Substances at Smith's Pharmacy #191 for the period from May 1, 2003 to March 6,  
5 2004. The starting inventory on May 1, 2003 was taken by Respondent and the closing inventory on March  
6 6, 2004 was taken by the new pharmacist-in-charge, Frank Stout. (See Exhibit C - Audit Results)

7 20. On March 25, 2004, a Board Compliance Officer visited Dr. Sutera's medical office and  
8 reviewed the prescriptions filled for Respondent between the dates of May 1, 2003 through March 6, 2004.  
9 (See Exhibit D - Dr. Sutera's response )

10 21. On April 5, 2004, a Board Compliance Officer mailed to the Las Vegas, Nevada address of  
11 Dr. Charles Tadlock, a printout of prescriptions filled at Smith's Pharmacy #191 for patient L.D.. Dr.  
12 Tadlock provided a response that patient L.D. was last seen on March 11, 2004 and that patient L.D. was  
13 terminated from Dr. Tadlock's practice on April 1, 2004. ( See Exhibit E - Dr. Tadlock's response)

14 22. Dr. Sutera denied prescribing any of the hydrocodone with acetaminophen prescriptions as  
15 listed on Respondent's patient profile and dispensed by Respondent for himself between the dates of May  
16 1, 2003 through March 4, 2004. Respondent dispensed to himself 1200 hydrocodone 10 mg. with  
17 acetaminophen 650 mg. tablets, a class III Controlled Substance as defined in A.R.S. § 36-2514 and 21  
18 C.F.R. § 1308-13, all of which were dispensed without a valid prescription order as required under A.R.S.  
19 § 32-1901 (73) and A.R.S. § 36-2525(D).

20 23. Dr. Sutera denied prescribing any of the carisoprodol listed on Respondent's patient profile and  
21 dispensed by Respondent to himself from May 1, 2003 through March 4, 2004. Respondent dispensed to  
22 himself a total of 900 carisoprodol 350 mg. tablets, a class IV Controlled Substance as defined in A.R.S.  
23 § 36-2515, all of which were dispensed without a valid prescription order as required under A.R.S. § 32-  
24 1901 (73) and A.R.S. § 36-2525(D).

25 24. Dr. Tadlock denied prescribing any of the acetaminophen #4 tablets for patient L.D. and  
26 dispensed by Respondent from May 6, 2003 through March 2, 2004. Respondent dispensed to patient

1 L.D., a total of 1,120 tablets of acetaminophen #4 tablets with codeine 60 mg. tablets, a Class III  
2 Controlled Substance as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308-13, all of which were  
3 dispensed without a valid prescription order as required under A.R.S. § 32-1901 (73) and A.R.S. § 36-  
4 2525(D).

5 25. The audit conducted by the Board Compliance Officer determined that Respondent, as  
6 pharmacist-in-charge, failed to account for the following Class III Controlled Substances as defined in  
7 A.R.S. § 36-2514 and 21 C.F.R. § 1308-13 :

- 8 a) 180 tablets of hydrocodone 7.5 mg. with acetaminophen 325 mg.
- 9 b) 5,039 tablets of hydrocodone 7.5mg. with acetaminophen 500 mg.
- 10 c) 456 tablets of hydrocodone 7.5 mg. with acetaminophen 750 mg.
- 11 d) 4,003 tablets of hydrocodone 10 mg. with acetaminophen 325 mg.
- 12 e) 4,085 tablets of hydrocodone 10 mg. with acetaminophen 500 mg.
- 13 e) 1,999 tablets of hydrocodone 10 mg. with acetaminohen 650 mg.
- 14 f) 55 tablets of hydrocodone 10 mg. with acetaminophen 660 mg.

15 in violation of A.R.S. § 36-2523(A) and 21 C.F.R. § 1304.04.

#### 16 CONCLUSIONS OF LAW

17 26. Under A.R.S. § 32-1901, et seq., The Board is the duly constituted authority for the regulation  
18 and control of the practice of pharmacy in the state of Arizona.

19 27. The conduct and circumstances described in paragraphs 22 through 24 constitute a  
20 violation (s) of A.R.S. § 32-1968 (A) to wit:

21 **A.R.S. § 32-1968 (A):** A prescription-only drug shall be dispensed only under one of the  
22 following conditions:

- 23 1. By a medical practitioner in conformance with section 32-1921.
- 24 2. On a written prescription order
- 25 3. On an oral prescription order that is reduced promptly to writing and filed by the  
26 pharmacist.
- 24 4. By renewing any written or oral prescription order if a renewal is authorized by the  
prescriber either in the original prescription order or by an oral order that is reduced  
promptly to writing and filed by the pharmacist

28. The conduct and circumstances in paragraph 25 constitute a violation (s) of A.R.S. § 36-

1 2523 (A) to wit:

2 Persons registered to manufacture, distribute or dispense controlled substances under this chapter  
3 shall keep records and maintain inventories in conformance with the record keeping and inventory  
4 requirements of federal law and title 32, chapter 18, and with any additional rules the board issues.

5 29. The conduct and circumstances described in the Findings of Fact above constitute  
6 grounds for disciplinary action under A.R.S. § 32-1927 (A)(10) and A.R.S. § 32-1927 (B)(2) to  
7 wit:

8 **A.R.S. § 32-1927 (A)(10)** The license of any pharmacist or pharmacy intern may be revoked  
9 or suspended or a pharmacist or pharmacy intern may be placed on probation by the board  
10 when :

11 The licensee is found by the board to be guilty of violating any Arizona or federal  
12 law, rule, or regulation relating to the manufacture and distribution of drugs, devices, or the  
13 practice of pharmacy.

14 **A.R.S. § 32-1927 (B)(2)** The license of any pharmacist or pharmacy intern may be revoked  
15 or suspended or the pharmacist or pharmacy intern may be placed on probation or censured  
16 and a civil penalty of not more than one thousand dollars (\$1000.00) for each offense may  
17 be imposed by the board when:

18 The licensee is found by the board, or is convicted in a federal or state court, of having  
19 violated federal or state laws or administrative rules pertaining to marijuana, prescription-  
20 only drugs, narcotics, dangerous drugs or controlled substances.

### 21 ORDER

22 Based upon the above Findings of Fact and Conclusions of Law and under the authority granted  
23 to the Board by A.R.S. § 32-1928, 41-1092.07 (F)(5), and A.A.C. R4-23-104(G).

24 **IT IS HEREBY ORDERED** that:

25 30. Respondent shall have initiated a five (5) year contract with the Pharmacists Assisting  
26 Pharmacists of Arizona (PAPA) and shall abide by each and every requirement of that contract.

31. License No. 12624, which was issued to Respondent for the practice of pharmacy in the State  
of Arizona, is hereby placed on **SUSPENSION** for a period of time to be determined by the steering  
committee of the Pharmacists Assisting Pharmacists in Arizona (PAPA), at a minimum for six (6) months,  
but not more than one (1) year from the date of the voluntary surrender of said license which was March  
10, 2004, and thereafter **PROBATION** for a period of five (5) years upon adoption of this Consent  
Agreement by the Board. The **SUSPENSION** and **PROBATION** are subject to the following conditions:

32. Respondent shall pay all fees and complete all Continuing Education requirements throughout the term of his **SUSPENSION** and **PROBATION** to maintain Pharmacist License Number 12624.

33. Respondent shall not serve as a preceptor pharmacist or pharmacist-in-charge throughout the term of his **SUSPENSION** and **PROBATION**.

34. Respondent shall obey all federal and state laws and rules governing the practice of pharmacy.

35. Respondent shall furnish the Board with a list of all jurisdictions in which he maintains or has maintained licensure in the profession of pharmacy along with the registration number of said licenses.

36. Respondent is required to advise the Board immediately of any change in pharmacy employment status throughout the term of his probation.

37. Respondent is required to furnish all pharmacy employers with a copy of this Board Order throughout the term of his probation.

38. Respondent shall complete fifteen (15) contact hours (1.5 CEU's) of American Council on Pharmaceutical Education (ACPE) approved Continuing Education on topics of ethics or law approved by the Board staff before the termination of the period of **PROBATION**. The additional Continuing Education hours are in addition to those required for license renewal by A.R.S. § 32-1936 and A.A.C. R4-23-204.

39. Respondent shall complete four hundred (400) hours of community service approved by the Board staff before the termination of the period of **PROBATION**.

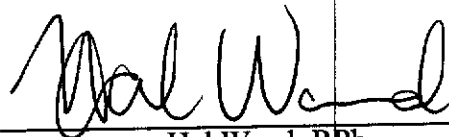
40. If Respondent violates this Order in any way or fails to fulfill the requirements of this Order, the Board, after giving the Respondent notice and the opportunity to be heard, may revoke, suspend or take other disciplinary actions against the Respondent. The issue of such hearing will be limited solely to whether this Order has been violated.

41. Respondent shall appear before the Board at a regularly scheduled Board meeting on or after June 24, 2009 to request that the probation imposed by this Order be terminated. Respondent's failure to petition the Board to terminate the probation shall extend the probation period.

1 DATED and EFFECTIVE this

25<sup>th</sup> day of June, 2004

ARIZONA STATE BOARD OF PHARMACY



Hal Wand, RPh  
Executive Director  
Arizona State Board of Pharmacy

9 ORIGINAL of the foregoing, fully executed,  
10 filed this 25<sup>th</sup> day of JUNE 2004, with:

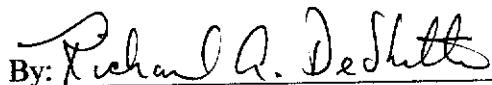
11 Arizona State Board of Pharmacy  
12 4425 W. Olive Avenue, #140  
13 Glendale, Arizona 85302

14 Fully Executed Copy of the foregoing sent  
15 via Certified US mail this day of  
16 , 2004 to:

17 HOWARD G. JONES  
18 4241 San Jose Road  
19 Bullhead City, AZ 86429

20 Copy of the foregoing mailed  
21 this 25<sup>th</sup> day of JUNE , 2004 to:

22 Roberto Pulver  
23 Assistant Attorney General  
24 1275 W. Washington, CIV/LES  
25 Phoenix, Arizona 85007  
26 Attorney for the State

By: 

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☐ Other

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece or on the front if space permits.

1. Article Addressed to:

HOWARD G JONES  
4241 SAN JOSE ROAD  
BULLHEAD CITY AZ 86429

2. Article Number (Copy from service label)

7000 1670 0006 4393 4181

PS Form 3811, July 1999

Domestic Return Receipt

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